



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX
75 Hawthorne Street
San Francisco, CA 94105

SFUND RECORDS CTR

2184456

February 26, 2009

Mr. Gene A. Lucero
Omega Chemical Site PRP Organized Group
Latham & Watkins LLP
355 South Grand Avenue
Los Angeles, CA 90071-1560

Re: OPOG's Offer to Perform OU-2 Groundwater Feasibility Study (FS),
Omega Chemical Superfund Site

Dear Mr. Lucero:

I am writing in response to your January 14, 2009 letter to Keith Takata in which the Omega PRP Organized Group (OPOG) requested that EPA allow OPOG to assume responsibility for performing the Feasibility Study (FS) for Operable Unit 2 (OU-2) – the regional groundwater component - of the Omega Chemical Superfund Site in Whittier, CA. As we discussed during our conference call on February 12, 2009, although we appreciate OPOG's interest in performing this work, EPA is declining OPOG's request.

Your letter offers several reasons why OPOG should be allowed to prepare the FS, including that OPOG has worked successfully with EPA for over 14 years. While we would agree that this working relationship has resulted in some significant progress toward cleanup at the site, there has also been frequent discord between EPA and OPOG over a wide variety of issues regarding site investigation and cleanup. Achieving success has often been a slow and time-consuming process, and, as described below, EPA has continuing concerns over OPOG's management, timeliness and quality of response work.

For example, there have been significant and repeated delays on many aspects of the response work OPOG has managed in recent years, including the OU-1 Engineering Evaluation/Cost Analysis (EE/CA), the OU-1 soils Remedial Investigation (RI) and Human Health Risk Assessment (HHRA), and the soils OU-1 Feasibility Study (FS). OPOG's efforts to implement the interim OU-1 groundwater response action in particular illustrate the pattern of slow progress and repeated delays. Although the EE/CA was completed in 2005 and EPA issued an Action Memorandum later that year, construction of the pump and treat system still has not been completed. OPOG recently asked EPA for a fourth extension to the approved schedule, and that request was not sought until after the point at which OPOG should have known that it would be impossible to meet the approved schedule. Although EPA acknowledges that some of the issues that have arisen on this work since 2005 were beyond OPOG's control, the significant delays in implementing this project reflect OPOG's shortcomings in managing this project.

On other occasions, EPA has encountered significant resistance from OPOG over additional response work EPA believed was necessary. For example, OPOG resisted EPA's requests for installation of wells in the deeper groundwater aquifer under OU-1. OPOG also resisted EPA's requests related to soil sampling locations, even though it was clear that OPOG's sampling had not fully defined the extent of contamination.

Your letter also claims that allowing OPOG to prepare the OU-2 FS would relieve EPA of contractor budget and task order responsibilities. This would not be the case, as EPA would still engage a contractor to support our oversight of OPOG's FS work, and that oversight would be a major task in and of itself. EPA already has a task order in place for our contractor to prepare the FS, and considerable effort would be required to generate a new task order under which that contractor would provide oversight of OPOG's work. There would be the additional burden of negotiating an enforcement instrument to cover OPOG's performance of the FS work.

EPA believes the OU-2 FS will benefit (in terms of time, efficiency and content) from the continued engagement of our contractor in preparing the FS. As you know, EPA's contractor conducted the RI and prepared the draft RI report, which EPA expects to release in early March. It is EPA's assessment that maintaining consistency, rather than transferring responsibility, will help to ensure the quality and timely completion of the FS.

Your letter asserts that OPOG would be better informed and prepared for implementing the OU-2 remedy if OPOG prepared the FS, and that it would facilitate PRP negotiations with EPA and others. EPA is prepared to have regular meetings with OPOG to discuss the progress and direction of the FS work, and that should provide more than adequate opportunities for OPOG to be fully informed about the ultimate remedy. We also believe that EPA is better positioned than OPOG to coordinate with other regulatory agencies, and that it is equally possible that, rather than facilitate negotiations, having OPOG perform the work will create friction with other PRPs who may perceive a conflict of interest.

EPA is prepared to start implementation of the FS immediately. As noted above, we have a task order in place with our contractor, and the schedule in that task order allows nine months to produce a draft FS. We believe that is a fairly aggressive schedule, given the complexity and the size of the groundwater plume, which now exceeds four miles in length. Contrary to your assertion, we believe it is highly unlikely that OPOG could produce a draft FS of reasonable quality within four months. We would, nonetheless, value your participation and support in helping us move the FS forward as quickly as possible.

In the coming year, we look forward to working with OPOG on the completion and start up of the OU-1 groundwater treatment system, negotiation of the consent decree for implementation of the OU-1 soils remedy, and addressing indoor contamination

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issues while design work on the soils remedy begins. In the meantime, if you have any questions about this letter, please contact me at (415) 972-3267.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathleen Salyer". The signature is fluid and cursive, with the first name "Kathleen" written in a more compact, stylized manner and the last name "Salyer" written more fully.

Kathleen Salyer
Assistant Director, Superfund Division
California Site Cleanup Branch

cc: Fred Schauffler
Lynda Deschambault
Steve Berninger